

104TH CONGRESS  
1ST SESSION

# H. R. 99

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of accelerated death benefits under life insurance contracts.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mrs. KENNELLY (for herself, Mr. FRANK of Massachusetts, Mr. RANGEL, Mr. McDERMOTT, Mr. CARDIN, Mr. GOSS, Mr. JEFFERSON, Mr. DEUTSCH, Ms. NORTON, Mr. SERRANO, Mr. OWENS, Mr. FALEOMAVAEGA, Mrs. LOWEY, Mr. MILLER of California, Mr. SMITH of New Jersey, and Mr. STUDDS) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of accelerated death benefits under life insurance contracts.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. TAX TREATMENT OF ACCELERATED DEATH**  
4                       **BENEFITS UNDER LIFE INSURANCE CON-**  
5                       **TRACTS.**

6       (a) GENERAL RULE.—Section 101 of the Internal  
7       Revenue Code of 1986 (relating to certain death benefits)

1 is amended by adding at the end the following new sub-  
2 section:

3 “(g) TREATMENT OF CERTAIN ACCELERATED  
4 DEATH BENEFITS.—

5 “(1) IN GENERAL.—For purposes of this sec-  
6 tion, any amount received under a life insurance  
7 contract on the life of an insured who is a terminally  
8 ill individual shall be treated as an amount paid by  
9 reason of the death of such insured.

10 “(2) NECESSARY CONDITIONS.—

11 “(A) IN GENERAL.—Paragraph (1) shall  
12 not apply to any amount received unless—

13 “(i) the total amount received is not  
14 less than the present value (determined  
15 under subparagraph (B)) of the reduction  
16 in the death benefit otherwise payable in  
17 the event of the death of the insured, and

18 “(ii) the percentage reduction in the  
19 cash surrender value of the contract by  
20 reason of the distribution does not exceed  
21 the percentage reduction in the death ben-  
22 efit payable under the contract by reason  
23 of such distribution.

1           “(B) PRESENT VALUE.—The present value  
2 of the reduction in the death benefit shall be  
3 determined by—

4           “(i) using a discount rate which is  
5 based on an interest rate which does not  
6 exceed the highest interest rate set forth in  
7 subparagraph (C), and

8           “(ii) assuming that the death benefit  
9 (or the portion thereof) would have been  
10 paid on the date which is 12 months after  
11 the date of the certification referred to in  
12 paragraph (3).

13           “(C) RATES.—The interest rates set forth  
14 in this subparagraph are the following:

15           “(i) the 90-day Treasury bill yield,

16           “(ii) the rate described as Moody’s  
17 Corporate Bond Yield Average-Monthly  
18 Average Corporates as published by  
19 Moody’s Investors Service, Inc., or any  
20 successor thereto, for the calendar month  
21 ending 2 months before the date on which  
22 the rate is determined, and

23           “(iii) the rate used to compute the  
24 cash surrender values under the contract

1           during the applicable period plus 1 percent  
2           per annum.

3           “(D) SPECIAL RULES RELATING TO  
4           LIENS.—If a lien is imposed against a life in-  
5           surance contract with respect to any amount re-  
6           ferred to in paragraph (1)—

7                   “(i) for purposes of subparagraph (A),  
8           the amount of such lien shall be treated as  
9           a reduction (at the time of receipt) in the  
10          death benefit or cash surrender value to  
11          the extent that such benefit or value, as  
12          the case may be, is (or may become) sub-  
13          ject to the lien, and

14                   “(ii) paragraph (1) shall not apply to  
15          the amount received unless any rate of in-  
16          terest with respect to any amount in con-  
17          nection with which such lien is imposed  
18          does not exceed the highest rate set forth  
19          in subparagraph (C).

20          “(3) TERMINALLY ILL INDIVIDUAL.—For pur-  
21          poses of this subsection, the term ‘terminally ill indi-  
22          vidual’ means an individual who the insurer has de-  
23          termined, after receipt of an acceptable certification  
24          by a licensed physician, has an illness or physical  
25          condition which can reasonably be expected to result

1 in death within 12 months after the date of certifi-  
2 cation.

3 “(4) EXCEPTION FOR BUSINESS-RELATED POLI-  
4 CIES.—This subsection shall not apply in the case of  
5 any amount paid to any taxpayer other than the in-  
6 sured if such taxpayer has an insurable interest with  
7 respect to the life of the insured by reason of the in-  
8 sured being a director, officer, or employee of the  
9 taxpayer or by reason of the insured having a finan-  
10 cial interest in any trade or business carried on by  
11 the taxpayer.”

12 (b) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2), the amendment made by this section shall  
15 apply to amounts received after the date of the en-  
16 actment of this Act.

17 (2) DELAY IN APPLICATION OF DISCOUNT  
18 RULES.—Clause (i) of section 101(g)(2)(A) of the  
19 Internal Revenue Code of 1986 shall not apply to  
20 any amount received before the first day of the first  
21 calendar month beginning more than 180 days after  
22 the date of the enactment of this Act.

23 (3) ISSUANCE OF RIDER NOT TREATED AS MA-  
24 TERIAL CHANGE.—For purposes of applying section  
25 101(f), 7702, or 7702A of the Internal Revenue

1 Code of 1986 to any contract, the issuance of a  
 2 qualified accelerated death benefit rider (as defined  
 3 in section 818(g) of such Code (as added by this  
 4 Act)) shall not be treated as a modification or mate-  
 5 rial change of such contract.

6 **SEC. 2. TAX TREATMENT OF COMPANIES ISSUING QUALI-**  
 7 **FIED ACCELERATED DEATH BENEFIT RID-**  
 8 **ERS.**

9 (a) QUALIFIED ACCELERATED DEATH BENEFIT RID-  
 10 ERS TREATED AS LIFE INSURANCE.—Section 818 of the  
 11 Internal Revenue Code of 1986 (relating to other defini-  
 12 tions and special rules) is amended by adding at the end  
 13 the following new subsection:

14 “(g) QUALIFIED ACCELERATED DEATH BENEFIT  
 15 RIDERS TREATED AS LIFE INSURANCE.—For purposes of  
 16 this part—

17 “(1) IN GENERAL.—Any reference to a life in-  
 18 surance contract shall be treated as including a ref-  
 19 erence to a qualified accelerated death benefit rider  
 20 on such contract.

21 “(2) QUALIFIED ACCELERATED DEATH BENE-  
 22 FIT RIDERS.—For purposes of this subsection, the  
 23 term ‘qualified accelerated death benefit rider’  
 24 means any rider on a life insurance contract which  
 25 provides for a distribution to an individual upon the

1       insured becoming a terminally ill individual (as de-  
2       fined in section 101(g)(3)).”

3       (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

